it. In my opinion, once the prosecution has proved that any gratification has been paid the presumption under section 14 of the Act arises.

In these two cases I think the prosecution has adduced sufficient evidence for the defence to be called. I therefore allow the appeal, reverse the order of the President and direct that the cases be retried before another President.

Appeal allowed. Retrial ordered.

Solicitors: *Jayadeva & Zahir.*

SARASPATHY & ANOR. v. KANAGASUNDRAM

[A. C. J. (Winslow J.) October 12, 1962]

[Singapore — District Court Appeal No. 13 of 1962]

Executors and Administrators — Promissory note signed jointly and severally promising to pay bonus to employee of deceased — Personal liability of administrators — Consideration.

In this case the appellants are the administratrix and co-administrator of the estate of one V.A.P. deceased. By a promissory note made on December 2, 1958, they acknowledged a debt of $1,000 due to the respondent as bonus for the period he had worked for the deceased. They also jointly and severally promised to pay the said sum to him or to his order within four months from that date. The respondent claimed against them as individuals who had signed the promissory note and in the lower court the learned District Judge gave judgment against them personally. On appeal the appellant contended *inter alia*: (1) there was insufficient consideration for the promise, (2) they were not personally liable for the obligations of the deceased, and (3) the learned District Judge was wrong in giving judgment against them personally as this had not been claimed by the respondent.

Held dismissing the appeal: (1) the promissory note in this case was sufficiently clear as regards consideration;

(2) an executor who promises to pay a debt due to the estate at a future date makes such a debt his own debt to be satisfied by his own goods. As in this case they promised to pay the debt jointly and severally they must have intended to be personally bound;

(3) the claim was made out against them personally on the promissory note, therefore, the last ground of appeal also failed.

Cases referred to:—

(1) *Goring* v. *Goring* 80 E.R. 9.

(2) *Childs* v. *Monins and Bowles* 129 E.R. 1045.

DISTRICT COURT APPEAL.

A. Muthuswamy for the appellants.

R. Murugason for the respondent.

Winslow J.: The defendants/appellants in this case are the administratrix and co-administrator of the estate of V. Anja Pillai, deceased, and although they have been sued in their respective names as such by the plaintiff/respondent it is noteworthy that the plaintiff's claim is not made against them as administratrix and co-administrator of the said estate but as individuals who had signed a promissory note dated 2nd December, 1958 acknowledging a debt of $1,000 due to the plaintiff/respondent as bonus for the period he had been working as a shop-assistant for the deceased at 363 Joo Chiat Road, Singapore. By this promissory note the two appellants also jointly and severally promised to pay the said sum to the plaintiff/respondent or to his order within four months from the date thereof.

Although Mr. Muthuswamy who appeared for the appellants listed seven grounds of appeal, his complaint substantially was that there was insufficient consideration for the promise, that the appellants were not personally liable for the obligations of the deceased, that the promissory note did not correctly set out the intentions of the parties as found by the learned District Judge, and that the learned District Judge was wrong in giving judgment against the appellants personally as this had not been claimed by the respondent.

To take the last ground first, whilst it is true that the action was brought against the appellants by name adding their representative capacities the claim itself was in fact endorsed and made out against them personally on the promissory note signed by them on 2nd December, 1958. I do not think therefore that the appeal can succeed on this ground as this was in fact a claim against the appellants personally.

The authorities of *Goring* v. *Goring* [1] and *Childs* v. *Monins and Bowles* [2] make it clear that an executor who promises to pay a debt due to the estate at a future date makes such a debt his own debt to be satisfied by his own goods. As Dallas C.J. in the latter case said, "This too is a promise which necessarily imports a payment at a future day, and an executor promising to pay a debt at a future day, makes the debt his own". Further it is not usual for executors to promise to pay a debt jointly and severally unless they intend to be personally bound. The facts in this appeal support these propositions.

As to the question of the sufficiency of consideration, to my mind, the document speaks loudly for itself and the evidence of the plaintiff/respondent which the trial Judge accepted makes it abundantly clear that this ground is badly based. As *Williams on Executors and Administrators* (13th edition) states at page 1033, "It was sufficient if the consideration could be gathered from the whole tenor of the writing; it was not necessary that it should be stated on the face of it in express terms". If it were necessary for me so to decide I would even be prepared to hold that the promissory note is sufficiently clear in this respect.

The other questions which arise in this case are purely questions of fact and the learned District Judge has given due consideration to the evidence before him and arrived at the only decision at which he could possibly have arrived.

Whilst I have been impressed by Mr. Muthuswamy's valiant efforts to resuscitate this case by his plea for an order that there should

be a re-trial at least, he must himself have realised that the dice were heavily loaded against him. In all the circumstances, I see no reason to interfere with the sound conclusion reached by the learned District Judge and the appeal is accordingly dismissed with costs. I also order that the sum of $150 deposited by way of security for costs be paid forthwith to the respondent's solicitors and brought into account in the computation of costs payable by the appellants.

Appeal dismissed.

Solicitors: *Muthu & Co.; Murugason & Co.*

KARTHAK v. DAMAI

[O. C. J. (Suffian J.) October 17, 1962]

[Alor Star — Civil Suit No. 96 of 1961]

Defamation — Slander — Privilege absolute or qualified.

Evidence — Gurkha Officers Committee or Panchayat — Whether "service court" or a "service authority" — Visiting Forces (British Commonwealth) Enactment, Johore, No. 2 of 1941, s.3(i) — Queen's Regulations for the Army, 1961, para. 1601 — Discussions on.

The plaintiff was an army school teacher and the defendant was a pupil in the army school. The defendant alleged that the plaintiff had had sexual intercourse with her as a result of which she was pregnant. The army authorities held an enquiry at which the plaintiff was refused an opportunity to confront the defendant in open court. He was dismissed from the army teaching service and brought this action to clear his name. The defendant pleaded privilege.

Held: dismissing the action, (1) the defence of absolute privilege failed;

(2) the defendant being a pupil in the army school had an interest or duty, if not legal, certainly social and moral to voice her accusations to the army authorities, who were obliged to investigate into her complaints. As the plaintiff was in the employment of the army the occasion of the publication of this defamatory accusation by the defendant was privileged;

(3) the plaintiff failed to prove malice.

Cases referred to:—

(1) *Jones* v. *Jones* [1916] 2 A.C. 481.

(2) *Dawkins* v. *Lord Rokeby* (1874-5), L.R. 7 E. & I. App. C. p. 744.

(3) *Addis* v. *Crocker* [1960] 3 W.L.R. 339.

(4) *Adam* v. *Ward* [1917] A.C. 309.

(5) *Macintosh & Anor.* v. *Dun & Ors.* [1908] A.C. 390.

(6) *London Association for Protection of Trade & Anor.* v. *Greenlands Ltd.* [1916] 2 A.C. 15.

The following case was also cited in argument: *Coopang Chetty* v. *Veera Padiachee*, 4 Ky. 364.

CIVIL SUIT.

Jag-Jit Singh for the plaintiff.

Y. S. Chong for the defendant.

Cur. Adv. Vult.

Suffian J.: The plaintiff, a Sikkimese, was a teacher with the Brigade of Gurkhas in this country. On 12th October, 1960, he went to India on leave from Kluang. On 24th February, 1961, he returned from India. That day he was summoned before an officer. He went and saw a Gurkha Major, Lal Bahadur Thapa. There were present then about 11 or 12 officers. An officer pointed to a girl, the defendant, and said that she had accused the plaintiff of having had intercourse with her in his kitchen the day before he had left for India and as a result she was now pregnant. Later that day a Panchayat was held to ascertain the truth of her allegations. There the girl repeated her allegations against the plaintiff. Following the finding of the Panchayat the plaintiff was dismissed summarily by the General Officer Commanding the Brigade of Gurkhas and was ordered to return to India at his own expense within 12 days. He appealed but unsuccessfully.

After correspondence with the army authorities, the plaintiff on the 11th October, 1961 filed this suit, complaining that the words:

"Karthak had intercourse with me in his kitchen one day before he left for India. As a result I am now pregnant."

uttered by the defendant at the Gurkha Officers' Mess, Kluang, on the 24th February, 1961, before Major Lal Bahadur, two European officers and about seven or eight other Gurkha officers were defamatory of the plaintiff, accusing him:

(a) of being a person unfit to be a Headmaster and/or school teacher in any school;

(b) of rape.

He said that by reason of the defamation he had been brought into public hatred, scandal and contempt and suffered damage to himself. The plaintiff claimed an injunction against the defendant. He also asked for damages for slander and costs. Because of this suit the Army authorities permitted him to remain in the country until after its conclusion, the plaintiff living with his wife who was and still is a teacher employed by the Forces.

I do not think that I shall ever know the whole truth about this case, for, unfortunately, by the time of the hearing, the defendant, an infant, had with her guardian *ad litem* left the country, apparently for good.

Be that as it may, it is quite clear that at the material time the defendant was about 19 years old and was a pupil at the plaintiff's school and that she did utter the words complained of.

There were many defences pleaded. At the hearing justification was abandoned as the defendant was not available to give evidence. Another defence was that the words complained of were not actionable without proof of special damage. Before the trial the defendant's counsel gave notice that he would cite *Jones* v. *Jones* (1) presumably in support of this defence, but at the hearing he said that if the plaintiff proved that the words were published he would concede that they were actionable *per se* without proof of special damages. In writing my judgment I came to the conclusion that publication had been proved and I proceeded on the basis that the words published were defamatory of the plaintiff.